



[3411-15-P]

## **DEPARTMENT OF AGRICULTURE**

### **Forest Service**

#### **Warm Springs, North River, and Glenwood-Pedlar Ranger Districts, George Washington National Forest; Highland, Bath, and Augusta Counties, Virginia; Marlinton Ranger District, Monongahela National Forest; Pocahontas County, West Virginia, Atlantic Coast Pipeline and Supply Header Supplemental Environmental Impact Statement**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare a supplemental environmental impact statement.

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**SUMMARY:** The USDA Forest Service is preparing a Supplemental Environmental Impact Statement (SEIS) to the 2017 Federal Energy Regulatory Commission (FERC) Final Environmental Impact Statement (FEIS) for the Atlantic Coast Pipeline (ACP) and Supply Header project. The ACP proposed action that is specific to National Forest System (NFS) lands is to construct, operate and maintain a 42-inch natural gas pipeline with associated facilities, such as roads, across the Monogahela (MNF) and George Washington National Forests (GWNF).

**DATES:** The Draft SEIS is expected to be available in July 2020 and the Final SEIS is anticipated later in 2020.

**FOR FURTHER INFORMATION CONTACT:** For media inquiries or to leave a message about the project on the GWNF, please contact Nadine Siak at: *SM.FS.GWJNF-PA@usda.gov* or leave a voicemail at 1-888-603-0261. For media inquiries or to leave a

message about the project on the MNF, please contact Kelly Bridges at *kelly.bridges@usda.gov* or 304-635-4432. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

## **SUPPLEMENTARY INFORMATION:**

### **Background and History**

On November 17, 2017, the Forest Service adopted the environmental analysis prepared by FERC for the ACP and Supply Header Project, and a final Record of Decision (ROD) was signed by the Southern and Eastern Regional Foresters. The ROD: (1) Authorized the use and occupancy of NFS lands for Atlantic Coastal Pipeline, LLC (Atlantic) to construct, operate and maintain a 42-inch interstate natural gas pipeline across the MNF and GWNF, and (2) Amended the MNF's and GWNF's Land and Resource Management Plans (Forest Plans) to allow the project to be consistent with the Forest Plans.

On January 23, 2018 the Forest Service issued the special use permit (SUP) and granted the right of way. On December 13, 2018, the Fourth Circuit Court of Appeals vacated the Forest Service ROD and the SUP issued to the ACP (*Cowpasture River Preservation Ass'n v. U.S. Forest Service*). The Court identified both National Forest Management Act (NFMA) and National Environmental Policy Act (NEPA) deficiencies as well as a Mineral Leasing Act issue which was granted a writ of certiorari by the Supreme Court of the United States. The Supreme Court of the United States recently held oral argument regarding whether the Forest Service can issue a Mineral Leasing Act authorization to cross the Appalachian National Scenic Trail (ANST) where it traverses the NFS lands. A decision is expected soon. The proposed action includes constructing

the pipeline underneath the ANST. The Forest Service will potentially have to revise this NOI after the Supreme Court ruling. For more detailed information on the background and history of the ACP project, see the project website at:

*<https://www.fs.usda.gov/detail/gwj/home/?cid=stelprd3824603>.*

### **Purpose and Need for Action**

The purpose of the project is to authorize the use and occupancy of NFS lands for Atlantic to construct, operate, and maintain a 42-inch interstate natural gas pipeline across the MNF and GWNF. A Forest Service decision is needed because the proposed route crosses approximately 21 miles of NFS lands and applications for natural gas pipelines that involve Federal land are governed by Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 181) and the Energy Policy Act of 2005.

There is a need for a supplemental analysis and new decision because the Fourth Circuit Court of Appeals vacated the Forest Service ROD and SUP. The Court identified both NFMA and NEPA issues. To resolve the Court's NFMA issues, there is a need to apply Forest Service Planning Rule requirements for soil, water, and threatened and endangered species to the Forest Plan amendments, consistent with 36 CFR 219.13(b)(5). The Court also identified NEPA deficiencies including the need for the Forest Service to analyze off-forest routes, and to evaluate erosion, sedimentation, and water quality effects in relation to anticipated mitigation effectiveness. There is a related need to amend the MNF's and GWNF's Forest Plans for the project to be consistent with the two Forest Plans. There is also a need to consider relevant, new information in the SEIS. The Forest Service will also evaluate any relevant changed circumstances since the ROD was signed in November 2017. Changed circumstances include, but are not limited to, new federally

listed threatened and endangered species and critical habitat designations. The existing condition, i.e., environmental baseline, also needs to be updated where relevant.

### **Proposed Action**

In response to the purpose and need, the following activities are proposed to be authorized by the Forest Service under a SUP:

- Construct a 42-inch pipeline across 5.1 miles of the MNF and 15.1 miles on the GWNF. Construction is expected to take approximately two years.
- Authorize a 125-foot-wide temporary construction right-of-way for pipeline installation. For most pipeline construction activities, this width would accommodate large equipment, pipe stringing and set up, welding, the trench, and the temporary storage of topsoil and trench spoil. The construction width would be reduced to approximately 75 feet in most wetlands and other ecologically sensitive areas, such as riparian habitat.
- Install above-ground facilities, limited to pipeline markers (e.g., at road and trail crossings) to advise the public of pipeline presence and cathodic pipeline protection test stations that are required by Department of Transportation.
- Maintain and improve as needed approximately 63 miles of roads (29 miles on the MNF and 34 miles on the GWNF) to support pipeline construction and operation. Improvement would include drainage structures, light grading, graveling, and spot widening to accommodate construction traffic.
- Construct approximately 19 miles of roads. Of those, approximately 7 miles would be new construction (6 miles on the MNF and 1 mile on the GWNF) and 12 miles of improved, existing road prisms (3 miles on MNF and 9 miles on the

GWNF). Improving the road prisms is considered new construction because they are not currently managed as open roads.

- The pipeline would be constructed and maintained in accordance with an updated construction, operation, and maintenance plan (COM Plan) that includes details on restoration, rehabilitation, visual resources, and all required mitigation for reducing or eliminating impacts to resources. See the FERC FEIS, Sec. 1.4 for a complete list of requirements for the ACP.

Four Forest Plan standards on the MNF and nine Forest Plan standards in Management Area 5C on the GWNF would be amended (see “Forest Plan Amendment” section) to ensure the SUP is consistent with the Forest Plans. Upon completion of pipeline construction, a longer-term SUP would be issued for a period up to 30 years for the operation and maintenance of a right-of-way.

### **Forest Plan Amendments**

The Forest Plan Amendment on the MNF would modify four standards as described in Tables 2 and 3 in the 2017 Forest Service ROD including SW06 (severe rutting), SW07 (use of wheeled and/or tracked, motorized equipment), SW03 (disturbed soil rehabilitation), and TE07 (threatened and endangered species, special use permits).

The Forest Plan Amendment on the GWNF would place the ACP into Management Area 5C (Designated Utility Corridors) and amend FW-244 (utility corridors), FW-5 (revegetation), FW-8 (water saturated areas), FW-16 (exposed soil in channeled ephemeral zones), FW-17 (residual basal area in channeled ephemeral zones), use of wheeled and/or tracked, motorized equipment), 11-003 (exposed soil within

riparian corridors), 4A-025 (Appalachian National Scenic Trail), 2C3-015 (Eligible Recreational River Area), and FW-182 (scenic integrity objectives).

The Planning Rule at 36 CFR 219.13(b)(2) requires responsible officials to provide notice of which substantive requirements of 36 CFR §§ 219.8 through 219.11 are likely to be directly related to the amendment. Whether a rule provision is directly related to an amendment is determined by any one of the following: The purpose for the amendment, a beneficial effect of the amendment, a substantial adverse effect of the amendment, or a lessening of plan protections by the amendment (36 CFR 219.13(b)(5)). Based on those criteria, the substantive Planning Rule provisions that are likely to be directly related to the amendments are: § 219.8(a)(1) (terrestrial ecosystems); § 219.8(a)(2)(ii) (soils and water productivity); § 219.8(a)(2)(iv) (water resources); § 219.8(a)(3)(i) (ecological integrity of riparian areas); § 219.9(b) (contributions to recovery of threatened and endangered species); § 219.10(a)(3) (utility corridors); § 219.10(b)(1)(vi) (other designated areas); § 219.10(b)(1)(i) (scenic character); and § 219.11(c) (timber harvesting for purposes other than timber production).

### **Responsible Official**

The responsible officials are the Regional Foresters for the Southern and Eastern Regions.

### **Nature of Decision To Be Made**

Given the purpose and need, the Regional Foresters will review the proposed action, alternatives, the environmental consequences, the stipulations (mitigation) that would be applicable in the SUP, public comment, and the project record in order to make the following decisions on whether to: (1) Authorize the use and occupancy of NFS land for

Atlantic to construct, operate, and maintain a natural gas pipeline that crosses NFS lands administered by the MNF and GWNF via issuance of a SUP; (2) Approve Forest Plan amendments that would modify four standards in the MNF's Forest Plan and nine standards in the GWNF's Forest Plan; and (3) Adopt all or portions of the FERC FEIS.

While the Supply Header project was included in the FERC FEIS, it is not on NFS lands. Therefore, no analysis will be prepared or decision made on this project.

### **Public Engagement Process**

Scoping was completed and summarized in the FERC FEIS (FEIS, Section ES-2, 1.3). Written, specific comments, including those that were relevant to NFS lands, identified concerns and issues that were addressed in the FEIS. Scoping will not be repeated and this SEIS will focus on the following:

- Issues identified in the Court ruling including the potential for the proposal to cause adverse impacts to soil, water, and threatened and Endangered Species Act (ESA) Threatened and Endangered species and their habitat;
- The purpose and impact of the Forest Plan amendments on affected resources (soil, water, ESA Threatened and Endangered species, scenic integrity, ANST, and eligible recreation rivers) and consistency with the Planning Rule;
- The feasibility and practicality of having routes that are not on NFS lands; and,
- A re-evaluation and assessment of erosion, sedimentation, and water quality effects in relation to anticipated mitigation effectiveness.

Additional opportunities for public comment will be provided when the Draft SEIS is available. A Forest Service decision to authorize the construction and operation

of the ACP will be subject to the Forest Service predecisional administrative review procedures established in 36 CFR 218 (per 36 CFR 219.59(b)). Those wishing to object must meet the requirements at 36 CFR 218, Subpart A and B for the project.

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[FR Doc. 2020-12621 Filed: 6/10/2020 8:45 am; Publication Date: 6/11/2020]